

November 19, 2013

Ernest A. Conant
Young Wooldridge, LLP
1800 30th Street, 4th Floor
Bakersfield, CA 93301

Re: Your Request for Advice
Our File No. A-13-136

Dear Mr. Conant:

This letter responds to your request for advice regarding the San Luis Obispo Local Agency Formation Commission (“LAFCO”) and campaign provisions of the Political Reform Act (the “Act”).¹

QUESTION

Is the Paso Robles Agricultural Alliance for Groundwater Solutions (“AAGS”) required to organize as a committee and file campaign reports as required under the Act?

CONCLUSION

Yes, the Paso Robles AAGS is required to organize as a committee and file campaign reports as required under the Act.

FACTS

You represent an unincorporated association called the Paso Robles AAGS which has as its objective and purpose “to work cooperatively to secure a sustainable groundwater supply in the Paso Robles Groundwater Basin.” They have been engaged in various forums in the community addressing groundwater issues. One of the activities they have undertaken is to prepare a petition to San Luis Obispo LAFCO to form a California water district in the Paso

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Robles basin within San Luis Obispo County. Sections 84250-84252 have been brought to their attention which could require filing a monthly statement with the county clerk and LAFCO.

However, you question whether these statutes and any associated regulations² are applicable in this situation because:

(i) Paso Robles AAGS is not formed “primarily” to support formation of a California Water District before LAFCO, and carries on various other activities not related to LAFCO, and

(ii) Section 84250 speaks of these requirements applicable to a “measure,” which is defined at Section 82043, as a “proposition which is submitted to a popular vote.” In this case, there would ultimately be a formation election, but only landowners would vote based on their acreage in the proposed district, which would not seem to be an election based on a popular vote.

ANALYSIS

Payments made for political purposes are either contributions or expenditures. (Sections 82015 and 82025.) This includes payments made for the purpose of influencing or attempting to influence the actions of voters or a LAFCO for or against the qualification, adoption, or passage of a LAFCO proposal. Section 84251 provides as follows:

“A payment made for ‘political purposes,’ as that term is used in Sections 82015 and 82025, includes a payment made for the purpose of influencing or attempting to influence the actions of voters or a local agency formation commission for or against the qualification, adoption, or passage of a LAFCO proposal.”

Once an entity makes contributions or expenditures of \$1,000 or more the entity must organize as a campaign committee. (Section 82013.)

Therefore, any payments made for the purpose of influencing or attempting to influence the actions of voters or a LAFCO for or against the qualification, adoption, or passage of a LAFCO proposal³ are contributions or expenditures. Once these contributions or expenditures reach \$1,000 or more, the organization must organize as a committee.

Section 84250 states that the reporting requirements of Title 4 of the Act that are applicable to a measure, also apply to a LAFCO proposal. Section 84252 specifies that a committee primarily formed to support or oppose a LAFCO proposal shall file all statements required by the Act, but in lieu of statements required by Sections 84200 and 84202.3, the

² The Commission at its November 14th, 2013 meeting adopted Regulation 18417 Campaign Reporting – LAFCO Proposals, a copy of which is enclosed.

³ Section 82035.5 defines a “LAFCO proposal” as “a proposal, as defined in Section 56069, including a proceeding, as defined by Section 56067” of the Government Code.

committee must file monthly campaign statements from the time circulation of a petition begins until a measure is placed on the ballot, or until the committee is terminated if the measure is not placed on the ballot.

You state that the Paso Robles AAGS is not formed “primarily” to support formation of a California water district before LAFCO, because it carries on various other activities not related to LAFCO. In the case of a multipurpose organization such as the Paso Robles AAGS, you examine the organization’s political activity to determine whether it is primarily formed for a measure. Section 82047.5 and Regulation 18247.5 define a “primarily formed committee” under the Act. Under these definitions, even if the organization is a multipurpose organization because it carries out various activities, if its political activity which qualifies it as a committee is focused on one measure, or two or more measures on the same ballot, the committee is considered to be primarily formed for the measure. This appears to be the case with the Paso Robles AAGS.

The Paso Robles AAGS is circulating a petition to San Luis Obispo LAFCO to form a California water district in the Paso Robles basin within San Luis Obispo County. Payments made in relation to the circulation of this petition and a subsequent measure would be contributions or expenditures under Sections 82015 and 82025. Therefore, the Paso Robles AAGS must organize as a committee once it makes contributions or expenditures of \$1,000 or more in relation to its petition and potential measure.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Zackery P. Morazzini
General Counsel

By: Sukhi K. Brar
Counsel, Legal Division

SKB:jgl

Enclosure